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Public Hearing

before

ASSEMBLY APPROPRIATIONS COMMITTEE

ASSEMBLY CONCURRENT RESOLUTION No. 2 (2R)

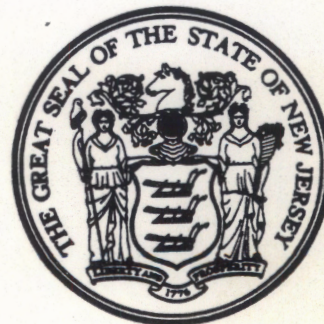
(Proposes constitutional amendment to prohibit State from requiring county or municipality to perform new or expanded program or service without full State funding)

LOCATION: Committee Room 10
Legislative Office Building
Trenton, New Jersey

DATE: May 28, 1992
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

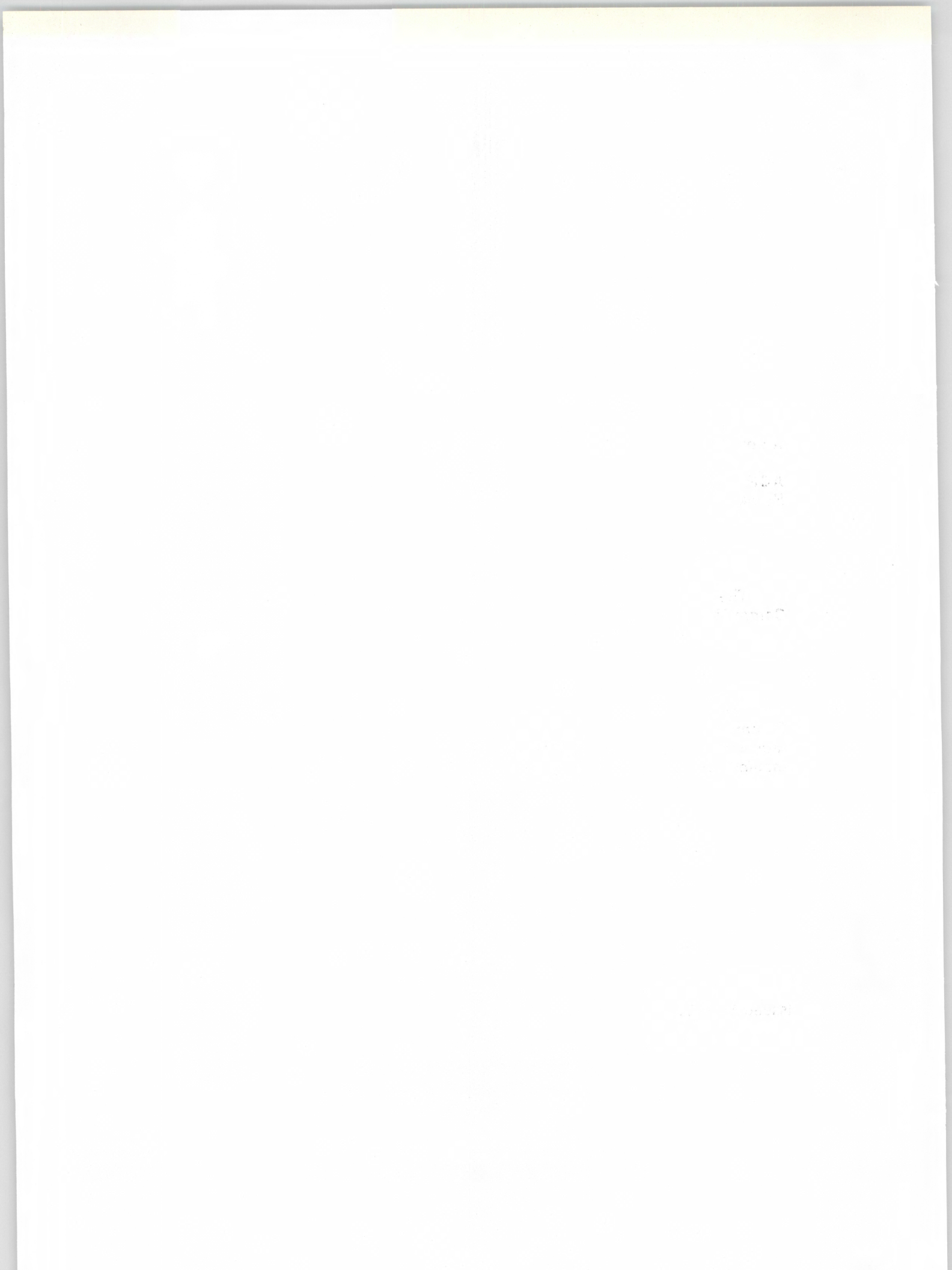
Assemblyman Rodney P. Frelinghuysen, Chairman
Assemblyman C. Richard Kamin, Vice-Chairman
Assemblywoman Joann H. Smith
Assemblyman Paul DiGaetano
Assemblyman Richard H. Bagger
Assemblyman John C. Gibson
Assemblyman Walter J. Kavanaugh
Assemblyman Leonard Lance
Assemblyman Bernard F. Kenny, Jr.
Assemblyman John S. Watson



ALSO PRESENT:

Philip N. Liloia
Office of Legislative Services
Aide, Assembly Appropriations Committee

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, 162 W. State St., CN 068, Trenton, New Jersey 08625-0068





RODNEY P. FRELINGHUYSEN
 Chairman
 C. RICHARD KAMIN
 Vice Chairman & Sub-Committee Chair
 JOANN H. SMITH
 Sub-Committee Chair
 PAUL DIGAETANO
 Sub-Committee Chair

New Jersey State Legislature

ASSEMBLY APPROPRIATIONS COMMITTEE
 LEGISLATIVE OFFICE BUILDING, CN-068
 TRENTON, NEW JERSEY 08625-0068
 (609) 984-6798

RICHARD H. BAGGER
 JOHN C. GIBSON
 WALTER J. KAVANAUGH
 LEONARD LANCE
 BERNARD F. KENNY, JR.
 JACKIE R. MATTISON
 JOHN S. WATSON

NOTICE OF PUBLIC HEARING

The Assembly Appropriations Committee will hold a public hearing on the following legislation:

ACR-2 (2R) Proposes constitutional amendment to prohibit State
Franks from requiring county or municipality to perform new
 or expanded program or service without full State
 funding.

The hearing will be held on **Thursday, May 28, 1992 at 10:00 a.m. in
 Committee Room 10, Legislative Office Building, Trenton.**

*The public may address comments and questions to Michael J. Basarab,
 Committee Aide and persons wishing to testify should contact Patricia Scott,
 secretary, at (609) 984-6798. Those persons presenting written testimony
 should provide 15 copies to the committee on the day of the hearing.*

Issued 5/18/92

1 this paragraph, if a bill proposing the enactment of that law shall
2 pass the Legislature by a two-thirds majority of all the members
3 of each house, and the yeas and nays of the members voting on
4 final passage shall be entered on the journal.

5 b. Amend Article IV, Section IV, paragraph 6 to read as follows:

6 6. All bills and joint resolutions shall be read three times in
7 each house before final passage. No bill or joint resolution shall
8 be read a third time in either house until after the intervention of
9 one full calendar day following the day of the second reading; but
10 if either house shall resolve by vote of three-fourths of all its
11 members, signified by yeas and nays entered on the journal, that
12 a bill or joint resolution is an emergency measure, it may proceed
13 forthwith from second to third reading. No bill or joint resolution
14 shall pass unless there shall be a majority of all the members of
15 each body personally present and agreeing thereto, except that a
16 bill requiring a county or municipality to perform a new or
17 expanded program or service, as may be defined by law, but
18 without the provision of full State funding otherwise required by
19 Article VIII, Section II, paragraph 5 of this Constitution, shall not
20 pass unless there shall be a two-thirds majority of all the
21 members of each body personally present and agreeing thereto,
22 and the yeas and nays of the members voting on such final
23 passage shall be entered on the journal.

24 (cf: Article IV, Section IV, paragraph 6 effective January 1, 1948)

25 2. When this proposed amendment to the Constitution is finally
26 agreed to, pursuant to Article IX, paragraph 1 of the
27 Constitution, it shall be submitted to the people at the next
28 general election occurring more than three months after that
29 final agreement and shall be published at least once in at least
30 one newspaper of each county designated by the President of the
31 Senate and the Speaker of the General Assembly and the
32 Secretary of State, not less than three months prior to that
33 general election.

34 3. This proposed amendment to the Constitution shall be
35 submitted to the people at that election in the following manner
36 and form:

37 There shall be printed on each official ballot to be used at that
38 general election, the following:

39 a. In every municipality in which voting machines are not used,
40 a legend which shall immediately precede the question, as follows:

41 If you favor the proposition printed below make a cross (x), plus
42 (+) or check (✓) in the square opposite the word "Yes." If you are
43 opposed thereto make a cross (x), plus (+) or check (✓) in the
44 square opposite the word "No."

45 b. In every municipality the following question:

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	YES.	<p>PROHIBITION ON STATE REQUIREMENTS THAT COUNTIES OR MUNICIPALITIES PERFORM NEW OR EXPANDED PROGRAMS OR SERVICES WITHOUT FULL STATE FUNDING</p> <p>Do you approve the amendment to the Constitution prohibiting the State government ¹, on and after <u>May 1, 1993</u>,¹ from requiring by law, rule, regulation or order that a county or municipality perform any new or expanded program or service, as may be defined by law, unless ²[a State appropriation is made and]² sufficient ²State² funds ²are² provided to the county or municipality as may be necessary to pay for any net additional costs ²[of compliance with the requirement] <u>directly required for the actual performance of the program or service</u>², except in cases where a law imposing such requirement without providing for full State funding is enacted after passage by a two-thirds majority of all the members of each house of the Legislature, and further prohibiting the Legislature from passing a bill proposing such a law without providing for full State funding, except by a two-thirds majority vote of all the members of each house of the Legislature?</p>
	NO.	<p>INTERPRETIVE STATEMENT</p> <p>If this proposed amendment to the Constitution is approved, the State government would be prohibited ¹, ²[effective] on and after² <u>May 1, 1993</u>,¹ from requiring, through a State law, rule, regulation or order, that a county or municipality perform any new or expanded program or service unless the State provides the funds necessary to enable the county or municipality to comply with the requirement. An exception is authorized only when a State law requiring a new or expanded local program or service but without full State funding is enacted after passage by a two-thirds majority of the members of both houses of the Legislature. The amendment also prohibits the Legislature from passing a bill proposing such a law without full State funding, except by a two-thirds majority vote of the members of both houses of the Legislature.</p>

Proposes constitutional amendment to prohibit State from requiring county or municipality to perform new or expanded program or service without full State funding.

ASSEMBLY POLICY AND RULES COMMITTEE

STATEMENT TO

ASSEMBLY CONCURRENT RESOLUTION No. 2

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 30, 1992

The Assembly Policy and Rules Committee favorably reports Assembly Concurrent Resolution No. 2 with committee amendments.

Assembly Concurrent Resolution, No. 2 proposes a constitutional amendment to prohibit the State from requiring the governing body of a county or a municipality to perform any new or expanded program or service without full State funding.

The resolution specifically proposes to amend Article VIII, Section II of the State Constitution by adding a new paragraph which:

(1) Would prohibit the State government from mandating the governing body of any county or municipality to perform any new program or service, or to expand any existing program or service, unless the State provides full funding for the net additional cost the performance of that program or service imposes on the county or municipality; but

(2) Would permit the enactment of a law that mandates the governing body of a county or municipality to perform a new or expanded program or service for which the State does not provide full funding for the net additional costs if the enabling legislation is approved by two-thirds of the members of each house.

The resolution also proposes an amendment to Article IV, Section IV, paragraph 6 of the State Constitution to incorporate the provisions requiring a two-thirds vote for the passage of any legislation which mandates a county or municipality to perform a new or expanded program or service, but which fails to provide full State funding for the net additional costs the performance of that program or services imposes upon the affected local unit.

The committee, at the sponsor's request, adopted three clarifying amendments to the resolution. The first clarifies that the provisions of the resolution are to become effective on May 1, 1993. The second, which changed "costs resulting from the required performance" into "costs directly required for the actual performance of that program or service," was adopted to clarify that the intent of the constitutional amendment is to require that the State provide funding prior to a local unit's actual participation in a mandated program or service. It was the committee's opinion that the phrase "costs resulting from" might be misconstrued to permit some type of reimbursement program, when the intent of the constitutional amendment clearly is to require the State to provide "up-front" funding. Finally, the committee amended the resolution to remove the reference to "a State appropriation." This amendment was adopted to emphasize that the committee's primary concern is not the mechanism used to provide the necessary funds, but rather that "sufficient State funds" be provided to the affected counties and municipalities.

MINORITY STATEMENT

SUBMITTED BY ASSEMBLYMAN PASCRELL

Assemblyman Doria and I unequivocally support a constitutional amendment requiring the State to fund any new and expanded program or service it requires any local government to perform.

While I voted for ACR 2, I am very concerned that it omits two major areas of mandated costs and contains three major loopholes which future legislatures could use to subtly undermine the letter and spirit of the proposed constitutional amendment.

My first concern is that school districts and State court orders are not included in the ACR. As we know, school and court mandates represent some of the costliest burdens for local property taxpayers.

My second concern is that by allowing the Legislature to define what constitutes "a new or expanded program or service" in subsequent legislation, a future Legislature could undermine the spirit of this constitutional amendment. It could sneak wording into the mandating legislation that the constitutional provision does not apply to this legislation. Or it could amend the legislation that initially implements this constitutional amendment such that the new mandate is exempted from the constitutional requirement. A third way to undermine this ACR would be to place wording in the Annual Appropriations Act exempting the State from funding the mandate. The only way to avoid this is to take out of ACR 2 the wording "as may be defined by law."

My third concern is that the constitution, not the Legislature, should establish the dollar threshold above which a mandate would have to be funded. The amendment proposed by Assemblyman Doria and myself would set that threshold at an amount equal to the product of the equalized valuations of a municipality times a tax rate of one cent per hundred dollars of valuation.

One alternative is to establish a threshold based on the statewide cost of the mandate. This approach ignores the impact on particular municipalities where a cost could be relatively high (several cents on the tax rate) or merely several dollars.

Not putting the dollar threshold in the constitution, again, allows future Legislatures to set it very high and avoid the constitutional requirement.

My final concern is that a provision should be added to the ACR to make it politically difficult for the legislature to reduce a current aid program in order to fund a mandated program. This provision would require a "permanent statutory authorization" which precludes the insertion of language in the appropriations act to effect such a reduction and shift. The only way to reduce and shift aid would be to enact separate legislation which will make very obvious what is happening.

Not to do this or a similar provision would be seen as a cynical attempt to curry favor with the voters while the legislature does its "business as usual": increase local taxes but not State aid.

FISCAL NOTE TO
ASSEMBLY CONCURRENT RESOLUTION No. 2

STATE OF NEW JERSEY

DATED: April 29, 1992

Assembly Concurrent Resolution No. 2 of 1992 proposes to amend the State Constitution to require the State government to pay for any net additional costs of any new or expanded programs or services that it mandates upon counties and municipalities. Under the proposed amendment, any provision of law, or of a rule, regulation or order issued pursuant to law, that has the effect of requiring a county or municipality to perform a new or expanded program or service would be inoperative in its effect unless a State appropriation is made and full State funding provided for any net additional costs of compliance with the requirement by the local government. An exception is authorized only when a State law imposing a mandated program or service requirement without full State funding is enacted following passage by a two-thirds majority of the members of both houses of the Legislature.

The Department of Treasury's fiscal note to this constitutional amendment states that it is prospective in nature and no basis exists for projecting its cost.

The Office of Legislative Services concurs that this proposed constitutional amendment is prospective in nature and no basis exists for projecting its cost.

This constitutional amendment will have no impact on State mandates currently in effect. Since it is impossible to predict future legislative enactments and their costs, the prospective fiscal impact of this proposed constitutional amendment on the State and its local units cannot be estimated.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY LOCAL GOVERNMENT COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY CONCURRENT RESOLUTION No. 2

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 1992

The Assembly Local Government committee reports favorably Assembly Concurrent Resolution No. 2 (1R) with Assembly committee amendments.

Assembly Concurrent Resolution No. 2 (1R) proposes a constitutional amendment to prohibit the State from requiring the governing body of a county or a municipality to perform any new or expanded program or service without full State funding.

The resolution specifically proposes to amend Article VIII, Section II of the State Constitution by adding a new paragraph which:

(1) Would prohibit, as of May 1, 1993, the State government from mandating the governing body of any county or municipality to perform any new program or service, or to expand any existing program or service, unless the State provides full funding for the net additional cost directly required for the actual performance of that program or service; but

(2) Would permit the enactment of a law that mandates the governing body of a county or municipality to perform a new or expanded program or service for which the State does not provide the required full funding for the net additional costs directly required for the actual performance of that program or service, if the enabling legislation is approved by two-thirds of the members of each house of the Legislature.

Assembly Concurrent Resolution No. 2 (1R) also proposes an amendment to Article IV, Section IV, paragraph 6 of the State Constitution to require a two-thirds vote for the passage of any legislation which mandates a county or municipality to perform a new or expanded program or service, but which fails to provide to the affected local unit, or units, full State funding for the net additional costs directly required for the actual performance of that program or service.

The committee made a technical amendment to the concurrent resolution to make clear that if approved by the voters, it is intended to take effect on May 1, 1993. The committee also amended the public question to clarify that the State would be required to appropriate sufficient funds that are directly required for the actual performance of a mandated program or service.

It is the committee's understanding that this concurrent resolution would not apply to the rules and regulations promulgated by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.).

The six committee members present at the meeting unanimously expressed their strong belief that the Legislature should consider a further amendment to this concurrent resolution to include State mandates affecting school districts.

ASSEMBLY APPROPRIATIONS COMMITTEE
STATEMENT TO
[SECOND REPRINT]
ASSEMBLY CONCURRENT RESOLUTION No. 2
STATE OF NEW JERSEY

DATED: MAY 18, 1992

The Assembly Appropriations Committee reports favorably Assembly Concurrent Resolution No. 2 (2R).

Assembly Concurrent Resolution No. 2 (2R) proposes a constitutional amendment to prohibit the State from requiring the governing body of a county or a municipality to perform any new or expanded program or service without full State funding.

The resolution specifically proposes to amend Article VIII, Section II of the State Constitution by adding a new paragraph which:

(1) would prohibit, as of May 1, 1993, the State government from mandating the governing body of any county or municipality to perform any new program or service, or to expand any existing program or service, unless the State provides full funding for the net additional cost directly required for the actual performance of that program or service; but

(2) would permit the enactment of a law that mandates the governing body of a county or municipality to perform a new or expanded program or service for which the State does not provide the required full funding for the net additional costs directly required for the actual performance of that program or service, if the enabling legislation is approved by two-thirds of the members of each house of the Legislature.

Assembly Concurrent Resolution No. 2 (2R) also proposes an amendment to Article IV, Section IV, paragraph 6 of the State Constitution to require two-thirds vote for the passage of any legislation which mandates a county or municipality to perform a new or expanded program or service, but which fails to provide the affected local unit, or units, full State funding for the net additional costs directly required for the actual performance of that program or service.

FISCAL IMPACT:

In the fiscal note, the Department of Treasury stated that this constitutional provision is prospective in nature and no basis exists for projecting its cost. This constitutional amendment will have no impact on State mandates currently in effect.

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ASSEMBLYMAN RODNEY P. FRELINGHUYSEN (Chairman): I would like to call this meeting to order. Appropriate notice has been published, and we are operating under the Sunshine Law, are we?

MR. LILOIA (Committee Aide): Yes, sir.

ASSEMBLYMAN FRELINGHUYSEN: The first thing this morning is, the Assembly Appropriations Committee will hold a hearing on the following legislation: ACR-2 (2R), by Assemblyman Franks, which proposes a constitutional amendment to prohibit the State from requiring county or municipality to perform new or expanded programs or services without full State funding. As advertised, the hearing is starting this morning at 10:00 a.m., in Committee Room 10 of the Legislative Office Building, Trenton. We would like to begin the public hearing as required by the Constitution.

A number of individuals have signed up to speak. The first of these is John Henderson, from the New Jersey School Boards Association. Is Mr. Henderson here?

ASSEMBLYMAN DiGAETANO: Yes, he was sitting in the front row.

ASSEMBLYMAN FRELINGHUYSEN: How about Ann Hager, President, Colts Neck Board of Education?

A N N H A G E R: I'm here.

ASSEMBLYMAN FRELINGHUYSEN: Yes, good morning. Come right up here to the microphone. Thank you very much for being with us.

MS. HAGER: Thank you.

ASSEMBLYMAN FRELINGHUYSEN: The reason there is all this wire around you is because we have to record the proceedings here.

K A T H R Y N M c M I C H A E L: Assemblyman, if I may come up with Ann?

ASSEMBLYMAN FRELINGHUYSEN: Yes.

MS. McMICHAEL: Kathy McMichael, New Jersey School Boards. John Henderson is here, okay? He is the one honchoing this bill, but--

ASSEMBLYMAN FRELINGHUYSEN: He just walked into the room.

MS. McMICHAEL: Oh, good.

MS. HAGER: If you want John to go first, fine.

ASSEMBLYMAN FRELINGHUYSEN: No, I want you to go first -- or however you want to do it. Do you want to go first, John? (affirmative response) The Chair recognizes John Henderson, New Jersey School Boards Association, to be followed by Ann Hager, President, Colts Neck Board of Education. Good morning. Thank you for being with us.

J O H N H E N D E R S O N: Mr. Chairman, the School Boards Association is here again to try maybe a little different line of argumentation to wedge our way into the bill.

This bill, as you know, requires State government to pay for the costs of any new or expanded programs mandated upon counties and municipalities. The School Boards Association seeks an amendment to the legislation to give the proposal some real teeth, by including school districts. School districts in the State find themselves in an untenable position. On the one hand we are showered with demands and obligations imposed by outside forces, but on the other we are in a constant state of anxiety as a result of a State-funding system which becomes more unstable every year. State figures are down, they're up; they're slashed, they're skimmed. Rational planning has become impossible.

But, the mandates keep coming, hundreds of them, from the Legislature and the State Board. Mandated programs are forcing out numerous locally initiated programs because we do not have the resources to implement all of them. Since ACR-2's introduction, Assemblyman Franks has repeatedly rejected our request to include school districts in the proposal. He said

he believes school districts' costs are a separate issue, and that he would support separate legislation for school districts at a later date.

That argument, however, we find to be hollow. Municipalities and counties are two separate identities -- two separate entities, and yet they are lumped together in ACR-2. Why, then, not three bills: one for counties, one for municipalities, one for school districts? The reality is that unless school districts are included in this very bill, no separate State mandate/State pay bill can make it through the Legislature in this session.

Media attention is here, and it's now, with this bill. The energy is here with this bill, not any future promised bill. The sponsor has spoken grandly and with some conviction: "If the Legislature believes a new program is necessary to protect the health, safety, and welfare of our State and its citizens, we should be willing to find resources to fund it." He also said that the Legislature would no longer be able to force local officials to take the heat for rising property taxes to pay for new State mandates. But the truth is, the children are also citizens of the State, and their health and safety are compromised when the implementation of a thoughtful State mandate -- and there are thoughtful State mandates; you have a few on the table now -- when thoughtful State mandates are delayed because the local district funds are not there. The sponsor's comments should apply to school children, as well.

Here are two examples of what will happen unless ACR-2 is amended: The current legislative proposals involving testing for remediation of both clean air and the removal of lead from drinking water are only two examples of where the tab for municipal and county remedial efforts would be picked up by the State. But unless ACR-2 is amended, school districts' costs for these same initiatives would either be passed on to

local property taxpayers or diverted from the districts' educational programming efforts.

Let me move to practical, cold politics. Even if we look at this in a coldly political way, ACR-2 would offer only slight relief to local officials for rising property taxes, since 75 percent of any municipality's tax load is school-expense related. Please note, too, that we are not asking for funding of past mandates, just the new ideas that you come up with from here on out. Still, this would be a tremendous help. Again, looking at the bill in coldly political terms, this bill now conflicts with S-525, Senator Randy Corman's bill, poised for a Senate vote, which includes school districts and municipalities and counties in one bill that requires a State mandate for all State regulations -- State mandate/State pay for all regulations that are proposed. But, in fact, State rules and regulations covered under Senator Corman's bill are used to clarify and guide the implementation of legislation.

We feel very strongly that the Senate is going to amend this bill if it goes over there anyway, and it may delay it getting on the ballot in November -- your bill, I mean, this bill here, ACR-2. There is very strong sentiment in the Senate on both sides of the aisle and among individual members of the Legislature. Last week we were down with Assemblyman Nickles and Assemblyman Rocco, both of whom said that it makes perfect, logical sense to have school districts in this bill.

In conclusion, school districts in the State are showered with demands and obligations imposed by the Legislature and the State Board and other public agencies. As recent media reports indicate, local school districts are now coming to grips with escalating salary costs, and settlements have shown a real percentage decline over the past two years, and continue to do so.

In addition, the caps imposed by the Legislature through QE II have intensified local budget scrutiny. It is, therefore, only a logical next step that the State, and its lawmakers, recognize their responsibility to simply fund their good ideas that they wish to turn into mandates. It is not only logical, it is a matter of equity.

Thank you.

ASSEMBLYMAN FRELINGHUYSEN: Thank you. Are there any questions for Mr. Henderson? (no response) If not, Ms. Hager?

MS. HAGER: Thank you.

Members of the Assembly Appropriations Committee: Thank you for the opportunity to speak to you today regarding ACR-2, the State mandate/State pay bill, and the fact that school district costs for implementing new laws are not included in this piece of legislation.

My name is Ann Hager. I have been a Board of Education member for eight years, and am presently serving as the President of the Board in Colts Neck Township.

The Colts Neck Township schools, as I am certain all schools in New Jersey, has as its central mission the education of all students, and is committed to providing programs and services that meet the needs of all those students. The challenge presented to boards of education is one of continuing to improve our schools and provide excellence in education in an environment of economic uncertainty, diminishing resources, and increasing demands.

Many of these increasing demands that we have to deal with are State mandated programs. Out-of-district placements for special education students, preschool handicapped classes, school resource committees as a part of the plan to revise special education, substance abuse programs, AIDS instruction, family life curriculums, dozens of mandated reports, and proposals involving clean air and lead in the drinking water are just a few examples of mandated programs each school

district must implement without additional funding to do so. Where does the money come from to implement these mandated programs? The funds are diverted from other areas of the program for students, thus reducing the dollars available to provide the basics for children.

I do not want to leave you with the impression that we feel these additional programs are not an important part of the education of our students. However, if the Legislature believes a new program is necessary for the safety and health, and will further enhance the children's education, the resources should be provided to implement that program.

Not having school districts included in ACR-2 is unfair to the children, as well as the taxpayers. I understand the intention of this bill is to provide relief for local property taxpayers. With as much as 75 percent of local property taxes related to school expenditures, it seems inconsistent to exclude school districts from ACR-2.

As you know, school budgets are the only budgets that the taxpayers can vote on. We have experienced budget defeats in Colts Neck for the past two years. The taxpayers will not support increases in the budget to support new mandates. Additional mandates without funding will continue to jeopardize the diminishing funds schools have for the programs already in place.

Boards of education are willing to accept the challenges of continuing to improve our schools, providing excellence in education for our children, and being responsible fiscally to our taxpayers. Please help us with this challenge by amending ACR-2 to include school districts in the State mandate/State pay bill. By doing so, you will be investing in education which is a winning proposition that will continue to yield dividends well into the future.

Thank you.

ASSEMBLYMAN FRELINGHUYSEN: Thank you very much for your testimony. Do any members have any questions or comments? (no response) If not, thank you for being here. I know you were reading from a prepared statement, and an excellent one. It might help our transcriber if we could get a copy of that. We have it on tape, but it may be beneficial for that person to have it. Thank you.

ASSEMBLYMAN KAVANAUGH: Mr. Chairman?

ASSEMBLYMAN FRELINGHUYSEN: Yes, Assemblyman Kavanaugh?

ASSEMBLYMAN KAVANAUGH: One question: What have the annual increases been to the total school districts for State mandated costs over the past, say, five years?

MR. HENDERSON: We haven't tracked that, Assemblyman, but we can try to get that information. It's tricky to separate them out, because they come from both the State Board and the Legislature, too. You know, we traditionally only know them when they come at us. We have one that is coming at us now -- seat belts -- which we expect to have within a month. That will be \$2000 a bus, for example. We had one with asbestos, as you know, a number of years back, and that was a \$30 million to \$50 million program, which still goes on.

So, we know individual ones, but we haven't aggregated them. We can try to do that and get back to you.

ASSEMBLYMAN KAVANAUGH: Through you, Mr. Chairman, on the asbestos situation, the State funded that to what amount?

MR. HENDERSON: Ten million.

ASSEMBLYMAN KAVANAUGH: Ten million, and the costs that were expended by the school districts?

MR. HENDERSON: Between \$30 million and \$50 million. We don't have it narrowed down any better than that.

ASSEMBLYMAN KAVANAUGH: And that didn't complete--

MR. HENDERSON: Oh, no, it goes on; it goes on. The districts that have not completed that, to kind of show what we are getting at-- The districts that have not completed the

asbestos removal are the poorer districts. They simply have not been doing it, in violation of the code and whatever statute generated the code. They have already diverted money from their programming to do it, but the job is so massive that they haven't been able to complete it. So, it is ongoing.

ASSEMBLYMAN KAVANAUGH: Thank you.

ASSEMBLYMAN FRELINGHUYSEN: Anyone else? Assemblyman Lance, and then Assemblyman Kamin.

ASSEMBLYMAN LANCE: Mr. Henderson, how many billions are collected in local property taxes? Do you have any idea -- statewide, in the aggregate?

MR. HENDERSON: For public education?

ASSEMBLYMAN LANCE: No, in toto, and then my next question is: What percentage of that is for education?

MR. HENDERSON: Maybe about a third. I don't know the total; the first question, I don't know the answer. I believe that about a fourth to a third of the State budget is school related -- school aid.

ASSEMBLYMAN LANCE: Not the State budget. I am addressing my question to the local property tax burden. What percentage of--

MR. HENDERSON: I believe we have calculated approximately, between State aid and local tax effort, between \$9 billion and \$10 billion.

ASSEMBLYMAN LANCE: So, of every dollar collected in local property taxes, perhaps 65 percent or 75 percent goes to the schools?

MR. HENDERSON: Closer to 75 percent these days. It used to be 65, but it inches up every year.

ASSEMBLYMAN LANCE: Mr. Chairman, through you, I would like to see some statistics, perhaps generated by the School Boards Association, as to precisely how much of every dollar collected locally in local property tax goes for school purposes on a statewide basis. I am sure it varies from

district to district, but somehow I would like to see the figure in the aggregate.

Are there other states, Mr. Henderson, that have a State mandate/State pay provision for additional mandated school programs -- mandated by legislatures?

MR. HENDERSON: We are in the process of collecting that. Assemblyman Franks indicated initially that approximately 21 states have state mandate/state pay. Our preliminary research indicates that about half of them have school districts included.

ASSEMBLYMAN LANCE: Well, I would be interested to know what states they are, and whether they are the states that fund a great deal for education. We spend more per pupil in this State than any state in the nation, and I would be interested to know of the states that have state mandate/state pay for additional school programs, whether they include the states that are at the higher end of the spectrum on per-pupil expenditure -- statewide averages.

Thank you, Mr. Chairman.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Assemblyman Lance.

Vice-Chairman, Assemblyman Dick Kamin?

ASSEMBLYMAN KAMIN: Thank you. My question comes from a different point of view, and that is: Assuming that State mandate/State pay becomes adopted, assuming that you are wedged into the bill, as you mentioned earlier, Mr. Henderson, would you think the School Boards Association, and other special interest groups, would be more likely or less likely to oppose the laundry list of ideas that are created down here in Trenton to impose new regulations, or new legislation?

MR. HENDERSON: It would seem, Mr. Vice-Chairman, that we categorically oppose the mandates that are forthcoming. Actually, we do so on a selective basis. I can just give you one example of local recent interest.

As you know, seat belts in school buses is something we oppose. However, roof hatches, which is approximately the same cost -- roof hatches and an extra emergency exit, which cost is more than that of seat belts, are things we embrace. Local school districts have been reluctant, since maintenance and improvements in transportation are down on their local priority. Sometimes we find it helpful to have a State mandate imposed upon them, so that they become more sensitive to safety. Roof hatches and an extra emergency exit, despite the cost, is a mandate we embrace. So, we have endorsed mandates in the past, and would continue to do so on a selective basis.

ASSEMBLYMAN KAMIN: My point is, if this were to become law, in my view it is probably less likely to oppose them because if the mandate happens, it is going to be paid for, so therefore it is not your problem. It may be a bad idea that we are proposing, but as long as the funding is coming with it, there isn't maybe the questioning and the accountability aspect during the legislative, or regulatory process.

MR. HENDERSON: Well, I think our members, Mr. Kamin, are very sensitive, also, to property taxes, though. They are constantly hammered with it at election time. I think that check on them would continue. You may want to speak to that.

MS. HAGER: Absolutely. We are always hammered at election time, obviously because we are the only budget that anyone gets to take their frustrations out on. Whether they are annoyed with you, whether they are annoyed with us, whether they are annoyed with anyone, they take it out on us. So, adding any additional pressure to us is not healthy.

ASSEMBLYMAN KAMIN: Some say there is not enough.

Thank you, Mr. Chairman.

ASSEMBLYMAN FRELINGHUYSEN: Assemblyman Kavanaugh, and then Assemblyman DiGaetano..

ASSEMBLYMAN KAVANAUGH: Thank you, Mr. Chairman. A point of information, Mr. Henderson: There is a resource available to you. That is the National Conference of State Legislatures in Washington -- the NCSL -- which is a membership enjoyed by the State of New Jersey that we pay for. They have staff that review all the rules and regulations and laws throughout the country. I think they would be very helpful in assisting you in trying to bring up some of the questions that Assemblyman Lance and myself asked. If not, there are a number of us here who have been very active. I am a former board member there, and we tried to assist you in getting those figures.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Assemblyman Kavanaugh.

Assemblyman Paul DiGaetano?

ASSEMBLYMAN DiGAETANO: Thank you, Mr. Chairman. Through you, I would like to ask if the School Boards have considered, or would consider, supporting credits toward the additional costs on a State mandate/State pay against increases -- annual increases in aid that go to the school districts?

MR. HENDERSON: I'm not sure I follow you, Mr. DiGaetano.

ASSEMBLYMAN DiGAETANO: Well, let's say, for argument's sake, that we were to pass a State mandate/State pay and six months down the road the Legislature passed a seat belt bill and it cost the school districts, in toto, \$2 million, and the annual increase in State aid to school districts was \$200 million. Would you support a credit against that \$200 million, or would you say, "No, we want the additional aid, plus we want the additional money for the program"?

MR. HENDERSON: Well, we would see them as two different notions; that the \$200 million would be generated for school programming -- classes, teachers' salaries, the gestalt that makes up a whole school district operation.

ASSEMBLYMAN DiGAETANO: We would like to think so, also, but, in fact, that is not the case. We use this year as a case in point. This year there is a huge sum of money that has been additionally proposed for the school districts, and I have seen some of the school districts' budgets that include items such as the purchase of a new administration building for the administrative offices, \$10,000 or \$15,000 worth of furniture for the school superintendent, and things like that. And I would say that, while there might be some increased costs due to what are already mandated programs, that there are certainly other items which the additional State aid is used for that would not be directly attributable to those programs, and therefore, in that line of thought, there should be some credit given to the State if we are giving you "X" number of additional dollars over the course of this fiscal year -- or calendar year -- that there should be a credit for that additional program of \$2 million, or whatever.

MR. HENDERSON: I would have to hear-- I mean, if it becomes dollar for dollar, then it kind of defeats the purpose, because if the State mandates something and it takes it off the aid that is generated by the formulas, then it has kind of lost its point.

If you are talking about changing the formulas so that they are more sensitive to exclude elaborate furniture for superintendents' offices, well, then, maybe we would have a different discussion.

ASSEMBLYMAN DiGAETANO: Well, what I am suggesting is that the State aid money is used for a host of items, and although the proverbial hue and cry from the School Boards is, "Any less money cuts the educational programs, cuts teachers," etc., we know there is a good portion of that that is not exactly the case, and that there are other items of expenditures which do not directly go to the educational programs. I have named a couple of them.

If we are going to go forward with that there should be some consideration, in light of the fact that the State has, in the past, appropriated substantial sums for education aid, and substantial additional sums on an annual basis. Districts vary in their awards to teachers, custodians, etc. Some may be very frugal and give 5 percent or 6 percent increases; some may give 10 percent or 12 percent increases. I think along those lines, there should be some consideration for it, rather than the School Boards saying, "Well, we want additional aid every year, plus we want you to pay for any new program you do."

Conversely, there should also be some consideration for any reduction in expenses due to a program being phased out or no longer required, such as the asbestos removal program, lead in the drinking water, or something like that.

MR. HENDERSON: To an extent, the formulas-- You know, I know the formulas are not popular these days, and we fully expect that you are going to be dealing with the formulas. Formulas are supposed to reflect that, the ups and downs. The extent to which they are achieving that is, as you know, debatable.

ASSEMBLYMAN DiGAETANO: Right.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Assemblyman DiGaetano.

I would just like to caution you: Everybody's microphone is on, unless you happened to turn it off. So, if there are any sidebar conversations, they will be picked up.

Assemblyman Kenny?

ASSEMBLYMAN KENNY: Thank you, Mr. Chairman. I have concerns about this piece of legislation. I voted for it a few weeks ago. I guess we all did. Quite frankly, I voted for it because everybody seems to support it, which is, I think, cause for concern. When you have everybody supporting something, that means, to my mind, that nobody really knows what it means. Otherwise, how could we all be in agreement?

I support it because all the mayors of my district called me and wrote letters supporting it. The County Executive sent somebody down here to support it. And, of course, from their side, they see that we don't want to pay for these programs and raise local property taxes. That is the way they view it.

On the other hand -- and, you know, I mean this with all respect -- somebody like Assemblyman Kamin-- He is trying to stop the laundry list -- as he calls it, the laundry list of programs coming out of Trenton. So this could be a vehicle to stop that laundry list of programs, because the State would not mandate such programs if they couldn't pay for them; if they didn't have the revenue. So that could act as a deterrent effect toward the programs. Yet, my constituents need the programs.

So, in effect, you know, my constituents, by supporting this type of legislation, could actually be putting a stop on the programs they need because the State will no longer mandate them if they have to pay for them. So, it is sort of a catch-22. You know, I have a problem with this. I have just been silent about it because I really don't have a handle on what this constitutional amendment ultimately -- what it is going to result in. I don't think too many people -- with all respect -- do. I think it is politically a very attractive thing to go around saying, you know, "If the State is going to mandate, the State has to pay," but what is the consequence to the municipalities if the State does not have the revenue? We already know. You know, we just rolled back the sales tax. It is going to be-- We don't have that much revenue to pay for new programs, or to support the ones we have.

The Chairman is in the process of working on this year's budget, and we know there is going to be some debate about that over the next few weeks. So, you know, I just wonder -- wonder out loud -- what the consequences are going to

be. Unless you get a two-thirds vote of the Legislature, the State, in order to mandate such a program for a locality, has to pay for it. There is an attractiveness to this thing, but I feel it could have consequences that are not-- Maybe they are being foreseen by the sponsors, Assemblyman Franks and others. Maybe they interpret it as being a deterrent for the State to proactively, you know, push programs that cost money. Whether you agree with that or not, it may have the effect of deterring that.

So, I know my constituents in my district depend on a proactive Trenton to support them through various forms of relief. This might have a deterrent effect. So I have a concern. I almost abstained the last time, but quite frankly I yielded to the feeling of the mayors and others that they don't want any Trenton programs that they are going to have to pay for. While I agree with that, I just say there are two sides to it.

Then the issue was raised here today-- I know that in our municipality, our municipal budgets are not the issue. They are not the issue. The municipal budgets have been shrinking, year after year after year in Hudson County. I mean, they are bare-bone municipal budgets. You could talk to Barry Skokowski at DCA, and he would confirm it. You know, we have shrunk our payrolls as much as 50 percent in the last 10 years. The problem, of course, is the education budget. The education budgets are the problem. They are eating up the taxpayers' money. Not to have them as part of this formula is really avoiding the issue, as far as rising property taxes in the urban areas are concerned. It is really on the education side.

So, you know, I don't think there has been enough debate over this. I regret that I didn't speak up before we voted on it. I think I probably should have, and I probably would have abstained, but I didn't. You know, we are going to

have floor debate, but there appears to be widespread support for this. I do feel that there is a concern. Maybe in the end when this whole thing is done, and it is ultimately interpreted and exceptions made with all sorts of ways of getting around it, we will end up with a system similar to what we have. It will just be more of a slogan than anything else, but I don't know. I just wanted to express that concern.

Thank you.

ASSEMBLYMAN FRELINGHUYSEN: Good. Thank you for your perspective, Assemblyman Kenny.

Let me just state for the record, the Committee did vote the bill out, as Assemblyman Kenny mentioned, last week. The purpose of this hearing is to satisfy the constitutional requirement -- isn't that correct? -- in order for the public to be heard on the issue. Obviously, any comments people want to make are germane to the discussion. But just for the record, if anyone came into the room who wasn't aware of it, the Committee has already taken action in endorsing the bill, so our function here is basically to get on the public record any other comments and testimony people may have on their minds.

I just want to point out to the Committee, there are a number of people who have signed up to talk.

At this point, I would like to thank Ms. Hager and Mr. Henderson for being with us. I am sure Mr. Henderson will be around, if there are any additional questions.

The reason we closed the window, Assemblyman Watson, is because there seemed to be a pack of wild dogs in the rear of the building here. (referring to disturbance from outside)

ASSEMBLYMAN WATSON: I would rather deal with the wild dogs than deal with the hot air.

ASSEMBLYMAN FRELINGHUYSEN: All right. We will open it and see if the dogs have been placated.

ASSEMBLYMAN WATSON: If it gets too hot, we may turn wild.

MR. HENDERSON: Mr. Chairman?

ASSEMBLYMAN FRELINGHUYSEN: Yes, yes. Mr. Henderson, a last comment?

MR. HENDERSON: If it would be possible to respond, in a way, to Assemblyman Kenny's comment-- In speaking in support of the bill, and again hoping that perhaps on the floor, or when Assemblyman Franks comes back, you can implore him to amend the bill on the floor--

To give you an example of the oversight that would be introduced in the Legislature, a number of years ago, childhood curvature of the spine became a health phenomenon, and it was either legislation or a code that was adopted to test all children. The only way to test all children was to test them all. So, the way it was written was, everybody gets tested, and it was never changed. So every year we test children for scoliosis, at an excess cost of \$25 million to \$30 million a year; not that we shouldn't test them, but testing them every year is excessive. We test more for scoliosis than we do for sight and hearing. But if there were legislative oversight, and you were watching us, and staff were watching us like hawks, that \$25 million would jump out of the State budget, and you would catch it. You would have caught it, probably, five years ago. So the potential here for State mandate/State pay saving the State significant amounts of money, is impressive.

ASSEMBLYMAN KENNY: Just through the Chair--

ASSEMBLYMAN FRELINGHUYSEN: Assemblyman Kenny?

ASSEMBLYMAN KENNY: Thank you. I don't disagree with that, but I question whether you need a constitutional amendment that is as far-reaching as this to accomplish that purpose. That is my point. That problem you just cited should be corrected in another manner.

Thank you, Mr. Chairman.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Assemblyman Kenny.

Assemblyman Lance, and then we are going to go to Al Augustein.

ASSEMBLYMAN LANCE: Mr. Henderson, do you know what percentage of all of the money spent for public education in this State is spent through the local property tax, and what percentage is State aid? I have heard the figures that State aid is 43 percent, and the local property tax burden, in toto, is 57 percent. Are those figures roughly accurate?

MR. HENDERSON: That is roughly accurate.

ASSEMBLYMAN LANCE: So, we here in Trenton contribute 43 percent of all of the costs of the education of public school students in New Jersey. And also, as I understand it, that has risen dramatically in the last generation.

MR. HENDERSON: No, the percentage has actually gone down. The total dollars have risen, but the percentage has gone down. It was as high as 48 percent.

ASSEMBLYMAN LANCE: Oh, I believe that is inaccurate. I think it was 20 percent a generation ago.

MR. HENDERSON: I am not speaking a generation; I am speaking 10, 12 years.

ASSEMBLYMAN LANCE: Well, before the imposition of the broad-based taxes in this State -- the sales tax first in 1966, and the income tax in 1976 -- I believe the burden was shared much more unequally, with a much higher percentage of the burden paid by the local property taxpayer. I would like to see, from the School Boards Association, what that burden was prior to the imposition of the broad-based taxes, and what it is now, a generation later.

My point is, I think we are doing a better job than we were a generation ago. Certainly, I have campaigned on the issue that ultimately at the State level we ought to be paying roughly 50 percent, which the national experts say is where we should be. But I think 43 percent is a great deal better than it was in New Jersey when I was a child. I would be interested

in seeing some figures from the School Boards Association on that.

Thank you, Mr. Chairman.

ASSEMBLYMAN FRELINGHUYSEN: Okay. Thank you very much, Assemblyman Lance. Mr. Henderson, thank you very much for being with us.

Alan Augustein, Union County Board of Chosen Freeholders? (no response) All right. Helen Yeldell, representing the New Jersey State League of Municipalities? Ms. Yeldell, thank you for being with us.

H E L E N Y E L D E L L: Thank you very much, Mr. Chairman.

Good morning. I sat in this spot about a week ago. I am Helen Yeldell, Intergovernmental Affairs Specialist at the New Jersey State League of Municipalities. It is my pleasure to appear before you in support of Assembly Concurrent Resolution No. 2, which would require the State to pay for State mandated programs and services.

I have a statement I am going to go through briefly. Last week, we were pleased that this Committee took action and released ACR-2. For several decades, the League has been in the forefront for the enactment of a constitutional amendment which would prohibit the State from requiring local governments -- by law or regulation -- to perform any new or expanded program or service without full State funding.

We applaud the sponsors for initiating this program to address this issue of such paramount importance. Our State needs a constitutional amendment that requires State government to pay for its programs out of its own General Fund. Municipal officials have already waited too long for such a provision.

This initiative will put in place a permanent solution to a consistently mounting problem. That problem is the costliness and proliferation of statutorily mandated programs and services. These mandates force municipalities to address a laundry list of State priorities before --- and sometimes at

the expense of -- priorities already determined by responsible and locally elected governing body officials.

Realizing that there is no such thing as a free lunch, the Legislature, through mandates, has found a way to pass the political costs of these programs on to local jurisdictions, which, in turn, are forced to pass the economic costs on to the local property taxpayer.

Local officials are forced to raise revenues to finance State mandated programs and services. Ultimately, the taxpayer will pay the costs. But, under this proposed amendment, the necessary funds must be provided by the same level of government which orders the expenditure. And it will, for the first time, be obvious to that taxpayer which level of government is the cause of each increase in governmental spending.

This is an honest and responsible initiative, which is long overdue. It is long overdue because back in the '70s, Proposition 13 in California, and Proposition 2 1/2 in Massachusetts, were big news. Everyone knows that each of these initiatives led to limitations on local property taxes. But what is often ignored, is that when the voters in those states decided that the time had come to cap property taxes, they also realized that the cap would be unworkable if the state legislatures were allowed to continue to shift costs to local governments. They, therefore, also provided for state pay for state mandates.

When our own Legislature imposed the cap on us, they neglected to include a State pay for State mandate provision. Now is the time to correct this oversight. Local officials should never again be forced to choose between increased taxes or cuts in services, in order to find the resources to pay for State mandates.

The taxpayer will ultimately foot the bill, however, if the mandate is passed. But it is up to you, the

Legislature, whether or not that will happen. This amendment need not cost anybody anything. ACR-2 will merely force the Legislature and the Governor to consider, for the first time, the costs, as well as the benefits, of every proposed mandate.

Under our current system, the Legislature is responsible for the enactment of mandates. But, the responsibility for the funding of these mandated programs is oftentimes shifted to local government jurisdictions. Thus, if the local official is forced to raise taxes or curtail other services, and possibly eliminate some services, he or she will be held accountable at the ballot box. Assembly Concurrent Resolution No. 2 will unite responsibility and accountability, and that union is the cornerstone of a truly just and effective representative democracy.

This issue has remained unaddressed for a very long time, until recently. It appears, and I hope, that its time has come. The League is very sensitive to the concerns of the New Jersey State School Boards Association. We do understand that they demand a large part of the municipal property tax budget. However, we have been in the forefront of this legislation for so many years. This legislation is so very near. It is receiving the attention we have always wanted. We are just asking that perhaps the school boards not be included in this legislation, and be addressed at some other time.

I appreciate the opportunity you have granted me this morning. I just read from the statement you have. I gave testimony last week in support of ACR-2. My organization is willing to do anything it can to expedite this matter and get it through the Legislature and onto the ballot in November.

Thank you.

ASSEMBLYMAN FRELINGHUYSEN: Thank you for your testimony. I believe Assemblyman Kavanaugh has a question for you.

ASSEMBLYMAN KAVANAUGH: Thank you, Mr. Chairman. Ms. Yeldell, as I listen here, and after we had passed this, and reviewed and listened to individuals, the same as what Assemblyman Kenny mentioned, I am surprised that the League of Municipalities is not in concert with the School Boards Association. It seems that the power of the League is now being used against a group which is less powerful, as far as impact on State government.

If we look -- and we have heard the testimony here this morning -- at some questions from Assemblyman Lance, the School Boards spend about 75 cents of every dollar. The League's members spend 25 cents, plus the counties -- 25 cents of every dollar between county and municipal government. We all know that in this form in county and municipal government, there is probably 80 percent that are there on an everyday basis, as far as payroll, pension, Social Security, health care, heat, light, and water, normal maintenance, etc., etc., so there is little movement that you can shift.

So, if this goes into place, we're talking about five cents on every dollar that is going to be affected, whereas if you included in the ACR the School Boards Association, then you would have an opportunity to have true State mandate/State pay. I understand your viewpoint with the League coming through, going out and saying that they got for their people State pay/State mandate. But, in reality, what are we doing for the citizens of New Jersey? Almost hoodwinking them, because there is no real, true benefit for property tax relief. It is going to continue. What you are going to do is set up two groups. You are going to set up the School Boards against the municipalities.

When it comes time for a budget to be declared, who is going to suffer? It is going to be the children of this State, because when they go in and move every time a budget is defeated, and then the municipality comes in and charges after

the school board, the depletion of the dollars in that school budget is only going to affect the quality of education.

MS. YELDELL: Yes, Assemblyman. We do not view the School Boards Association as an adversary. We have never, in the 20 years that I am aware of that we have been pushing for State mandate/State pay-- I don't think we have ever come together and discussed this issue as two separate entities uniting for this issue. We are very sensitive to what School Boards is saying. We just feel that at this point in time, where this bill is moving, and has gotten the attention thus far that it hasn't gotten before, that we are afraid that it may not go through.

We understand that we have the same people to protect, but they are an entity, and we are an entity. The legislation, as it is drafted, calls for municipalities and counties, and this is how we have been going forth with it.

ASSEMBLYMAN KAVANAUGH: One final point, Mr. Chairman: Why, in 20 years, didn't you contact the School Boards, because I know the School Boards has been interested in this program with the League? Why didn't the League--

MS. YELDELL: It just never came up. School Boards never contacted us either. We just went forward with this from hearing from all of our mayors and the people in the municipalities. We have stacks of resolutions from mayors of different towns. The School Boards never contacted us.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Assemblyman Kavanaugh. Ms. Yeldell, thank you very much for being with us -- unless there are any further questions? (no response)

By my count, we have three more people who have signed up to speak. Correct me if I am wrong. We have Linda Pullen, who is a member of the Mansfield Township Board of Education. Linda, are you here?

L I N D A P U L L E N: (speaking from audience) Yes.

ASSEMBLYMAN FRELINGHUYSEN: Good morning.

MS. PULLEN: Good morning.

ASSEMBLYMAN FRELINGHUYSEN: Thank you for being with us. We have Charles Banta, President of the Wallkill Valley Regional High School, and we also have Elaine Buchsbaum, from the West Amwell Board of Education, Hunterdon County.

MS. McMICHAEL: (speaking from audience) We'll have all three testifying at the same time, if that is all right, okay?

ASSEMBLYMAN FRELINGHUYSEN: That would be very nice. Will you all fit up there? (referring to witness table)

MS. McMICHAEL: All three testimonies are short, and I have copies of everything for you.

Okay, here we go.

ASSEMBLYMAN FRELINGHUYSEN: How organized! You get extra points for that. I'm not sure enough points, but--

MS. McMICHAEL: Linda, Elaine, and Mr. Banta.

ASSEMBLYMAN FRELINGHUYSEN: All right, I'll let you decide among yourselves, or maybe we'll give it to Linda. Ms. Pullen, thank you for being with us.

MS. PULLEN: Thank you. I have to apologize. I wasn't aware that the ACR was voted out last week. I was under the impression that it was testimony taken today, and that we were going to have our input and it was going to mean something.

Anyway, I am a fairly new school board member. I have only been on the board for two years, and a lot of this is new to me. I am from Columbus, New Jersey, which is in Burlington County, and I am on the Mansfield Township School Board.

While I wholeheartedly endorse State mandate/State pay, as do a lot of the people in our district, it does not include schools. When I was looking into some of this information, I recall our Superintendent of Schools-- There are numerous programs within our schools without State funding. I know Ann gave some of them before; I am going to give you a couple of others. We require a child study team,

gifted and talented programs, criminal history checks for all new employees, and asbestos removal. All of these mandates require additional hours -- man-hours -- to monitor, not to mention the costs of implementing the programs, which adds thousands of dollars to a budget each year. If you were to ask me how much money in each budget, I couldn't tell you. I didn't have enough time. I asked our Board Secretary yesterday to give me some figures, and she said it would take a lot of time. If you want it, I can get that for you.

But, our taxpayers have to absorb all of this. Because of the mandates, and the cuts in State aid to our district, the possibility of adding any new programs to our district for our students is out of the question.

Assemblyman Franks has been quoted as saying that if the constitutional amendment were approved, the Legislature would no longer be able to force officials to take the heat for raising property taxes for their new State mandates. I don't want to sound arrogant here, but is it safe to assume that it is okay for our school board members to take the heat for raising property taxes, which we have done in the past?

Since our school budgets are the only budgets voted on by the electorate, it is unreasonable that schools aren't part of this constitutional amendment. It appears that ACR-2, in its present form, is neglecting our schools. An example of just one mandate that is presently making its way through the legislative process regarding our schools is A-1136, State paid benefits for retired support staff personnel employed by local boards of education. The estimated cost is approximately \$6 million. If this bill is made into law, it will financially affect school districts for many years to come. We cannot, in good conscience, allow this to keep happening to our districts.

If we are mandated to provide a program that is essential to the educational value of our children, or the employees of the school district, it is only logical that the

Legislature would stand behind that program with financial aid. As an elected official, I would respectfully request that an amendment, if at all possible, be added to include schools. Municipalities and counties-- We are all integrally woven.

I thank you.

ASSEMBLYMAN FRELINGHUYSEN: Thank you very much for your testimony. You did a great job.

MS. PULLEN: Well, I'm so new at this, it's sort of like-- I'm sorry.

ASSEMBLYMAN FRELINGHUYSEN: We thank you for your time and effort.

MS. PULLEN: Thank you.

ASSEMBLYMAN FRELINGHUYSEN: Your testimony does count, notwithstanding what you may have thought.

MS. PULLEN: As a board member in our district, I care about what the parents have to say. I care about what the teachers have to say, and I would hope that you would be the same. I assume that you are. I have been going to different legislative meetings within the School Boards Association, and I see a true concern on the part of the Legislature to try to work with everyday people.

ASSEMBLYMAN FRELINGHUYSEN: I hope that is true.

MS. PULLEN: I think so.

ASSEMBLYMAN FRELINGHUYSEN: Okay, thank you.

Mr. Banta, thank you very much for being with us. You are the President of the Wallkill Valley Regional High School?

C H A R L E S B A N T A: Yes, sir. Thank you for allowing me to speak today on ACR-2. I am President of the Sussex County School Boards Association, and also President of the Wallkill Valley Regional High School Board of Education, which serves four towns in Sussex County. I would like to present some testimony requesting that school district costs be included in your ACR-2.

First, I wholeheartedly agree with Assemblyman Franks, who previously stated that ACR-2 would force the State to grow

up. I applaud the intent and purpose of the bill. It does signify a new, positive approach of new business in New Jersey. However, I believe the State should grow up all the way, not two-thirds of the way. Let's have it three-thirds of the way by including school district costs along with municipal and county costs.

School district costs are an integral part of every tax bill; a very significant part of the local property taxes. As has been said several times today, up to 75 percent of the tax bill can be related to school expenditures. State mandates related to the school districts result in significant costs to the taxpayer in time and effort to implement the rules and regulations. Any reasonably thinking taxpayer who is contemplating a vote on a referendum to amend the New Jersey Constitution to require the State to fund costs of implementing new laws, would absolutely want a complete bill that includes school costs along with municipal and county costs. Why? Because all three components are in your tax bill.

Again using Assemblyman Franks' phrase "growing up," I foresee another cooperating phrase of "pausing and considering the consequences for legislators thinking on pending, future mandates." To give you a very recent example of a State mandate costing the schools in New Jersey, and subsequently the taxpayer, is the new regulation for certifying teachers effective this September 1992. This regulation establishes an induction year for traditionally prepared beginning teachers. These new rules impose four responsibilities on local districts:

- 1) A certificate of eligibility with advanced standing.
- 2) To provide teachers with special support for the first year.
- 3) An evaluation and certificate recommendation.
- 4) The district must pay \$550 to the mentor teacher serving that new group of beginning teachers.

Current legislative proposals involving clean air and the removal of lead in drinking water are examples. On the near horizon you can see health care -- dental and doctor care -- becoming a school function. Will you pass State mandates on these? If so, who will pay?

Lastly, please consider Senate Bill No. 525, sponsored by Senator Corman, which does include school district costs as well as municipal and county costs. It does so because it recognizes the significant impact State mandates have on all three functions when complying with the rules and regulations.

Thank you very much.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Mr. Banta, for your testimony.

Ms. Elaine Buchsbaum. Elaine, thank you very much for being with us.

E L A I N E B U C H S B A U M: Good morning.

ASSEMBLYMAN FRELINGHUYSEN: Good morning.

MS. BUCHSBAUM: I want to give you, I guess I would call it a little slice of life, from the small district that I represent. My name is Elaine Buchsbaum. I am a member of the West Amwell Board of Education in Hunterdon County. We are a kindergarten through six district, with one building, and a school population of only 170 students.

I am here today to ask you to amend ACR-2 to include school districts. If the bill's intention is to provide relief for local property taxpayers, then how can you exclude from this bill schools, which are accountable for 75 percent of the local property taxes? Up until two years ago, West Amwell was fortunate enough to have never had a school budget voted down in its history. Then, in 1991, our budget, along with many in the county and across the State, was voted down overwhelmingly as a result of the economy. Last month, the budget was voted down for the second time in a row, even though this time 80 percent of the budgets in the county were passed. There is a

very specific reason why the West Amwell school budget was yet again defeated this year, when others were not.

We are one of the towns that was greatly affected by the gross receipt and franchise tax situation a couple of years ago. Nine-hundred-thousand dollars, or approximately 40 percent of our municipal budget, which had come directly to West Amwell in past years, was suddenly gone from our township budget. Through much hard work in our township, the money has been returned this year, but the taxpayers feel there is no guarantee for future years, and the residents are still very concerned about the potential loss of this money in years to come.

You can imagine the repercussions on the local school budget as a result of this financial worry. We hear over and over again that we are responsible for spending 75 percent of the taxpayers' money, at a time when our municipal financial situation is so unclear. Residents want to know why we can't cut costs, even though we have far fewer students in school than we did 15 or 20 years ago. Now, add to the situation the financial burden that a State mandate puts upon local education districts, a burden that the residents have a very hard time understanding.

I have been a school board member for eight years, and I have been President for two of those years. During those eight years, I saw a great increase in the number of mandates from the State being addressed to the school. These are over and above any mandates that result from the monitoring process, which is a whole other issue. One major problem with these mandates in general, is that there is no differentiation by the State as to a district's size, location, age of population served, or income the district has to work with.

For instance, the Right-to-Know training, which involves training all staff working with chemicals in a district, makes far more sense in a large high school district

where there are advanced science courses and science labs. Yet, a small K-6 district like West Amwell, which has little beyond cleansers in the building, is subject to the same training mandate.

The mandate on asbestos removal and inspection points out another problem. Twice a year, regular inspection is completed, and once a year a report is filed. This costs us about \$1500 a year, money which could be much better spent on textbooks or expansion of educational programs. Instead, this money goes to a private company, whose charges are not regulated by the State; whose workmanship is not guaranteed by the State. If we, the school districts, must incur these costs, at least set up a system whereby the State could come and do the inspections for all districts, and save us the effort of finding such private companies. In a small district such as ours, personnel is very scarce, and this is just one more hat for an administrator to wear.

Other mandates include: monthly water testing and reports, at a cost of \$80 a month; \$7500 a year for aid in lieu of transportation for parents who transport their kids to private school; a yearly audit at a cost of \$5000; transportation costs for students living over the mileage limit, which in our case is everyone, at \$65,000; advertising meetings at \$2500 a year. I could go on and on, but I think you get the idea.

I have tried to point out some of the smaller costs you might not be aware of, because they have a tendency to mount up in a district like ours. However, there are larger ones which can incur much larger expense, such as the removal of the underground storage tanks that we all dealt with a couple of years ago. The uncertainty of what you will find when you remove a storage tank is a very hard item to budget for.

I would like to close with a mandate that is a great financial burden, the health insurance. The State Health Plan mandates, at a minimum, employee only coverage, at a cost of \$2500 per year per employee, for us. Even if this employee is covered under a spouse's plan, we must provide it to the employee also. This is the case even if the employee is willing to forgo the coverage. This encourages double-dipping. A cost of \$2500 per person is an incredible cost, and yet we are locked into it. Even the deductibles are mandated at \$100 a year. Our health insurance costs have risen 20 percent to 30 percent over the last few years.

Today it was my intention to give you an idea of what it is like for a very small, rural school district to face State mandates. The mandates involve expenditures of moneys, some large, some small. Meanwhile, our residents continue to vote down our budgets out of fear of hard times and loss of municipal revenues specific to the few towns like West Amwell. On one hand we have mandates with no financial backing, and on the other hand we have taxpayers who are screaming for fewer expenditures by the local school, and we are caught in the middle.

Thank you for your attention.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Ms. Buchsbaum, for your testimony. Are there any questions? Assemblyman Gibson, and then Assemblyman Lance.

ASSEMBLYMAN GIBSON: For the record, Mr. Chairman, we held a hearing on this subject in our district, District 1, and a great majority of the people who testified were in favor of expanding the concept to school boards. I do have a question in addition to that.

If this were to come to be, that ultimately school boards would be included and passed by the voters and so on, would it still permit the Commissioner of Education mandating things that, in fact, the local government -- the local school

boards would have to appropriate money for? Maybe the former speaker might have to address that.

ASSEMBLYMAN FRELINGHUYSEN: Do you mean Mr. Henderson?

ASSEMBLYMAN GIBSON: Perhaps.

MR. HENDERSON: The--

ASSEMBLYMAN FRELINGHUYSEN: If you would just move a little forward, because I am not sure--

MR. HENDERSON: Senator Corman's bill-- The reason why there is a problem between ACR-2 and S-525 is that Senator Corman's bill deals only with code. So, if his bill is voted on by the Senate and approved, and approved by the Assembly, then the Commissioner of Education would be precluded from putting any mandates. However, the irony is that code is used to implement State law, so his bill can't work without this bill being amended. That was the dilemma I was trying to point out before.

ASSEMBLYMAN GIBSON: So his bill is more inclusive, is what it boils down to.

MR. HENDERSON: Well, if this bill doesn't cover State law, then the code that proceeds from State law won't be covered.

ASSEMBLYMAN GIBSON: Oh.

MR. HENDERSON: And yet Senator Corman's bill seeks to cover it.

ASSEMBLYMAN GIBSON: Okay. Thank you.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Assemblyman Gibson.

Assemblyman Lance, and then Assemblyman Kavanaugh. Then we are going to see if there are any other people who would like to testify.

ASSEMBLYMAN LANCE: Thank you, Mr. Chairman. This is a comment, as opposed to a question, regarding West Amwell Township and Ms. Buchsbaum. I think West Amwell is in the unusual situation of relying on State aid that it was promised

at the time of the deregulation of the telecommunications industry. West Amwell is one of a handful of municipalities that was given a moral promise by State government; \$6 million in toto, with West Amwell receiving approximately a million of that, or something like that.

MS. BUCHSBAUM: Nine-hundred-thousand.

ASSEMBLYMAN LANCE: Nine-hundred-thousand. That money was not funded in Fiscal Year 1990, and it was not funded again in Fiscal Year 1991. It was, however, funded last year, somewhat from efforts on my part, but I want to pay tribute to Assemblyman Watson, on the other side of the aisle, who was an integral part of funding last year. It is scheduled to be funded again this year in Governor Florio's budget, and, of course, I will be working on your behalf again. But this involves municipalities on both sides of the aisle, including for example Hamilton Township. Ms. Buchsbaum, not only did I work on that, but Assemblyman Watson was integrally involved in it.

MS. BUCHSBAUM: I was just trying to point out that the taxpayers, since it was a moral promise-- Well, it is hard to pay your bills on a promise, and the taxpayers are still very concerned about the issue.

ASSEMBLYMAN LANCE: And they are leery, Mr. Buchsbaum, because that moral promise was not followed through on in two of the last four years. Is that accurate?

MS. BUCHSBAUM: I suppose.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Assemblyman Lance.

Assemblyman Kavanaugh, and then Assemblyman Kenny.

ASSEMBLYMAN KAVANAUGH: For Mr. Henderson-- If you would come forward, sir? I am not sure whether you were in the room when I asked Ms. Yeldell the question why they didn't contact, and work in concert, with the School Boards this past 10 or 20 years. A question to you: Why didn't the School

Boards contact the League of Municipalities, instead of now, at the eleventh hour, coming and trying to get included in the ACR?

MR. HENDERSON: I can only answer for myself that I haven't been in touch. I understand that our two organizations have been meeting at the higher level; the Executive Directors have been meeting. I would assume that this issue has come up. The previous answer that the League has--

ASSEMBLYMAN KAVANAUGH: Just to interrupt you for one second, through you, Mr. Chairman-- It was stated by Ms. Yeldell that there was no contact between the School Boards and the League regarding this question. Is that correct?

MR. HENDERSON: I can't speak to that. I can only speak to my own involvement, and I have not been involved with the League since, in prior testimony, they made it very clear that they did not want us in the bill. So I saw no reason to try to overturn that.

ASSEMBLYMAN KAVANAUGH: That's not my question. My question is: Was there any contact over the years between the School Boards and the League of Municipalities regarding State mandate/State pay?

MR. HENDERSON: I can't confirm that. All I can say is, in the past year our Boards have met; our Presidents and Vice-Presidents have met. This issue has been on the front burner.

ASSEMBLYMAN KAVANAUGH: When you say "Boards"--

MR. HENDERSON: The School Boards Association President and Vice-President and the League's officers--

ASSEMBLYMAN KAVANAUGH: So, there has been contact?

MR. HENDERSON: --have met.

ASSEMBLYMAN KAVANAUGH: All right. Thank you.

MR. HENDERSON: I would certainly assume that this issue, which has been on the front burners of both of our organizations for years, has come up at that level. I would be surprised if it hadn't.

ASSEMBLYMAN KAVANAUGH: Thank you. Thank you, Mr. Chairman.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Assemblyman Kavanaugh.

Assemblyman Kenny?

ASSEMBLYMAN KENNY: Thank you, Mr. Chairman. I would just like to comment briefly on earlier remarks. The testimony today has been very helpful to me, to bring into focus what might be the impact of this constitutional amendment. I believe what I am hearing here is that one of the consequences could be that if we have State mandate/State pay in certain areas, and we don't have State mandate/State pay, say, in education, what is really going to happen in the budget, which is a finite number of dollars, is that the priority is going to be to take care of the State mandate/State pay items. Then the second level is going to be, the State mandate/no State pay segment of the mandates, those where they rely on discretionary moneys coming from the State through aid formulas, or whatever they may be. They are going to get shortchanged, because they are going to come in second. Then the pressure is going to fall on the local taxpayers to make up the difference.

So what you are going to have is, we are going to be taking care of the State mandate/State pays as the priority, and then other items, such as State mandates where we don't put the money up-- They are going to say, "Well, you know, we've got to take care of this problem. This is going to cost us a million dollars. So we'll take the million from somewhere else in the budget." It is going to come, maybe, out of education aid.

Then the third category is those things that are not mandated at all. Let's take, for example, municipal revitalization aid, which is not a mandate. It's voluntary expenditure money towards the urban areas. Those are not even mandates. So when you get finished with your State

mandate/State pay, and then you look at the State budget for those areas where we voluntarily spend for various causes -- whether it be health, the environment, the urban areas-- They are going to come in third.

So, what we are setting up here with this legislation -- this constitutional amendment -- is a priority. We are prioritizing where the money is going to go. I just wonder if everybody really understands the significance, especially those officials from the urban areas, who are very strongly in support of this. By supporting State mandate/State pay what you might be doing, in effect, is putting a stop on the State being proactive in support of various programs, because they won't have the money. They won't have the money because they are going to be putting it into only its mandates.

And that is another issue: What the State ultimately decides to mandate is going to be a political question, because the Legislature is not going to want to mandate anything unless it is willing to pay for it. So we are going to be joining that debate issue by issue.

Going back to what Assemblyman Kamin said--

MS. PULLEN: That is probably the point that everybody has been wanting to make all along.

ASSEMBLYMAN FRELINGHUYSEN: All right, I know the Assemblyman is going through the Chair, certainly he is going to.

ASSEMBLYMAN KENNY: Through the Chair, that might be attractive on its face, but what I am trying to say is: It could have an effect on stopping State government from being proactive in support of, in my view, very worthwhile programs that happen to cost money.

I just feel there are a lot of consequences to this legislation which, to me, are, at this point in time, unclear. But I really appreciate the testimony from all of the people, because it has helped us.

I understand the Chairman. We voted on this when we posted this. This is the way the system works. Then we have this hearing for the public on the amendment. I hope there is some debate on this between now and when it comes to the floor, and that maybe on the floor there will be some more discussion.

Thank you, Mr. Chairman.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Assemblyman Kenny.

Are there any further questions for those at the witness table? (no response) If not, thank you.

The last person who has asked to testify is a Mayor, and also one of our Assembly colleagues from District 38, Assemblywoman Rose Heck. Then, unless there are other people I don't know about, we are going to conclude what is constitutionally required in terms of this hearing.

Assemblywoman, good morning.

A S S E M B L Y W O M A N R O S E M A R I E H E C K:
Good morning. Thank you for taking the time to listen to me. I came, of course, for another bill, but since this is on the agenda, I would like to share with you the fact that we in District 38 did hold a public hearing on this subject -- a very well-attended public hearing -- and we received lots of input. We invited finance officers, mayors, council members, and added to them school board officials, superintendents of schools, etc., to get their input on State mandate/State pay.

It seemed to be the consensus of that particular group that we begin with this bill, and that this would be a good start. The testimony given by the superintendents of schools was rather shocking because of all the problems that seem to have stemmed from lots of our legislation. They spoke volumes about rules and regulations that they feel are inadequate and ineffective, but costly. That leads me to believe that we should not prolong the agony of moving forward with this State mandate/State pay amendment, but begin another investigation

and analysis of the education funding system in total, and of the rules and regulations governing that particular system, and a weeding out of nonproductive regulations. That, in and of itself, will take a very, very long time. They even spoke about caps being helpful and hurtful, and creative bookkeeping coming into play, and creative purchasing, which kind of surprised me; people keeping their numbers up in certain areas.

I think, Mr. Chairman, this Committee has done a service to the State by moving this out of Committee last week, and that we should use this as a foundation on which to work on the education problem, certainly which is a much more enormous and complicated problem, and take the time necessary to move on it in a productive manner.

Thank you very much.

ASSEMBLYMAN FRELINGHUYSEN: Thank you, Assemblywoman Heck, for your comments.

Is there anyone else here who has come to testify on ACR-2? (no response) If not, this concludes the formal public hearing on this constitutional proposal.

(HEARING CONCLUDED)

